

TRIBUTE



Thanks and Farewell to Professor Peter Wesley-Smith

This issue marks the departure of Professor Peter Wesley-Smith from the *Hong Kong Law Journal*, a publication with which he has been associated in various editorial capacities since 1974, most recently as Editor-in-Chief. Just as significantly, it marks his departure from the Faculty of Law, University of Hong Kong, after almost 30 years of association with it, where his enormous contribution as scholar and teacher will remain a legacy for many years to come.

Peter arrived in Hong Kong in 1970 as a Commonwealth Scholar to study for his PhD. The local legal academic community was then in its pioneering days, the first full-time law programme having been instituted only a year earlier. The subject of his thesis research was the Convention of Peking 1898. For this, he was duly awarded his PhD in 1976, and his thesis research culminated in the publication of his seminal work, *Unequal Treaty 1898-1997* (Hong Kong: Oxford University Press, 1980). A meticulously researched and carefully argued book, it established Peter's reputation as a first rate intellect and scholar measured by the highest standards in the academy. The revised edition, published in 1998, and updated to take into account developments leading up to the 1997 handover, was again received to critical acclaim, and maintains a freshness and relevance that very much repays a reading today, almost 20 years after its initial release.

Peter cut his academic teeth in this journal, the subject of his thesis research proving fertile ground for his early writings, most published by the Hong Kong Law Journal. As much a historian as a lawyer, his articles on the Walled City of Kowloon, the Kamtin Gates, and on the 19th century colonial officer and registrar James William Norton Kyshe, revealed an attention to detail and a careful and compendious documentation more likely to be associated with an archivist. As early contributor (the Hong Kong Law Journal began publishing in 1972) and soon thereafter (1974) in his first of many stints as editor, the Hong Kong Law Journal grew with and in many respects paralleled Peter's career, and eventually found a credibility of its own.

Much of Peter's writings reveal a fascination for the quirks and loopholes that arise out of Hong Kong's historical relationship with China (the walled city articles, and those on customary law), its colonial relationship with Britain (reception, stare decisis, the status of English decisions in Hong Kong, and the jurisprudential idiosyncrasies of decisions such as *Gensburger* and *De Lasala*), and out of legislative language generally. Peter has long been recognized as one of the leading experts in Hong Kong's legal system and its constitutional law, and has authored some of the most important texts, notably *An Introduction to the Hong Kong Legal System* (Hong Kong: Oxford University Press, 3rd ed 1998),

Constitutional and Administrative Law in Hong Kong (Hong Kong: Longman Asia Ltd, 2nd ed 1993), and *The Sources of Hong Kong Law* (Hong Kong: Hong Kong University Press 1994). These are complemented by a vast corpus of articles and essays on the legal system, the constitution, and on a wide range of related subject matter.

Eclectic in tastes and adventurous in his intellectual travels, Peter has also written in and introduced many of us to such exotic things as folk law. He once attempted a legal analysis of feng shui in a paper presented at an international symposium on folk law and legal pluralism. On another occasion, as the sole legal academic attending an overseas gathering of scholarly personages, Peter delivered an apparently learned paper on a topic no less sublime than Lewis Carroll, the author of *Alice in Wonderland* (to great acclaim, he insists). Peter also has an abiding interest in East Timor, both as a constitutional analyst and as a human being deeply concerned for the plight of the inhabitants of that troubled place, and has devoted much of his spare time in recent years to that cause.

As a scholar of such stature Peter's opinions were naturally sought by government and other public bodies, interest groups, and of course the media. He served dutifully on a range of governmental and non-governmental bodies over the years, including the Law Reform Commission, its sub-committees, and the office of the Hong Kong Ombudsman. He has given countless radio and newspaper interviews, as well as public lectures and addresses, and has, through the sheer force of his standing in the academic and legal communities, exerted a not insignificant influence on important matters of public interest, bringing alternative perspectives and insights to light, however much he would modestly and sometimes cynically deny any such influence. His intricate theories on *stare decisis* and the status of the common law in the wake of the 1997 sovereignty transfer, difficult as much for their complexity as for their unsettling implications, may not have had the impact on local jurisprudence that he would have hoped for, but serve as eloquent reminder that the legal transition has not been and cannot be as seamless as the authorities would have us believe.

As a teacher Peter will be fondly remembered by the generations of law graduates who were his students. A proponent of law as a liberal education, he brought to his lectures and materials the same inquiring and scholarly approach as to his writings. Very much the professor, his lectures were pitched at a high intellectual level, tempered only moderately by his dry wit and his often too subtle humour. As a result, he was most appreciated by the best students, but as an approachable and friendly teacher, he was liked by all of them, and over the years graced many a Law Association Christmas party and freshmen entertainment night with his coarse musical renditions of *ha gau siu mai* and other bawdy tunes. He counts many of his friends amongst his former students, and remains in regular contact with large numbers of them. To this day he is

often sought out and feted at sumptuous central district lunches by now prosperous practitioners, or as a guest of honour at alumni functions.

For many of us, colleagues and students alike, Peter will be remembered and missed for his wit and his playfulness, in his lectures and conference presentations, in his decanal addresses, in lunchtime banter, and not least in his writings. Only an academic of some flair and confidence could begin a textbook, 'But what is the common law ... Only poets know what is love, yet lesser mortals frequently fall into it. Is the common law no less mysterious than love?' (*The Sources of Hong Kong Law*, p 3).

Though Peter leaves us prematurely and therefore leaves us with sadness, he departs with gladness, in the words of the poet, 'to sing a sweeter song today'. For Peter Wesley-Smith is more than just a legal academic, he is a lyricist and musician, and departs to pursue those higher interests. The law's loss is art's gain, and though the loss be great, in losing to such competition, the law cannot feel too bad.

*Richard Glofcheski**

* Editor.